



Avant Building - Suite 900 | 200 Delaware Avenue | Buffalo, NY 14202-2107 | [bsk.com](http://bsk.com)

**SHARON M. PORCELLIO, ESQ.**  
[sporcellio@bsk.com](mailto:sporcellio@bsk.com)  
P: 716-416-7044  
F: 716-416-7344

March 27, 2018

Hon. Andrew T. Baxter  
U.S. Magistrate Judge  
United States District Court  
Northern District of New York  
100 South Clinton Street  
Syracuse, New York 13261

Re: *Naomi Gonzales v. Agway Energy Services, LLC*  
*Civil Action No. 5:18-CV-235 MAD/ATB*

Dear Judge Baxter:

I am writing on behalf of Defendant Agway Energy Services, LLC ("Defendant" or "Agway") in response to the letter sent on behalf of Plaintiff to the Court today, (Dkt. No. 43), requesting clarification of Your Honor's March 23, 2018 Order (the "Order," Dkt. No. 41). We of course recognize that Your Honor is well aware of the intended import of the Order, and we write simply to respectfully provide Your Honor with our understanding thereof so as to afford a full explanation of the parties' impasse.

The Order states that "[t]he court will address whether *other pretrial proceedings* should be stayed pending resolution of the motion to dismiss," and that the "4/18/2018 deadline for the submission of a joint Civil Case Management Plan is adjourned." Dkt. No. 41 (emphasis added). As the Civil Case Management Plan ("CMP") appended to Your Honor's February 26 Order makes clear, the purpose of the CMP is to memorialize the "results of the" parties' Rule 26(f) conference. See Dkt. No. 25 at 5. As such, we interpreted the Order to mean that Your Honor intended to determine at the Rule 16 Conference whether a Rule 26(f) conference between the parties was necessary at all, not merely that the parties should confer but not reduce to writing the results of that meeting. Plaintiff's position, in our view, places form over substance and is neither the most efficient nor economical use of the parties' resources in litigating this action. This is particularly true in light of the serious jurisdictional issue raised in our pending motion to dismiss.

Thank you for your consideration.

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Respectfully submitted,

BOND, SCHOENECK & KING, PLLC

A handwritten signature in blue ink, reading "Sharon M. Porcellio". The signature is written in a cursive, flowing style.

Sharon M. Porcellio

SMP/es

cc: All Attorneys of Record (*via ECF*)  
William K. Mosca, Esq. (*via e-mail*)  
Kenneth J. Sheehan, Esq. (*via e-mail*)  
John D. Coyle, Esq. (*via e-mail*)